

1 BILL LOCKYER, Attorney General
of the State of California
2 STEPHEN M. BOREMAN, State Bar No. 161498
Deputy Attorney General
California Department of Justice
3 1300 I Street, Suite 125
P.O. Box 944255
4 Sacramento, CA 94244-2550
Telephone: (916) 445-8383
5 Facsimile: (916) 327-2247

6 Attorneys for Complainant

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8 **BEFORE THE**
9 **PHYSICAL THERAPY BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 1D 2002-63012

13 BYRON M. THOMPSON, PT
6321 Lynch Canyon Road
Lake Isabella, CA 93240

OAH No.

14 Physical Therapist No. PT 22397

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 Respondent.
18 _____

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
23 Therapy Board of California. He brought this action solely in his official capacity and is
24 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
25 Stephen M. Boreman, Deputy Attorney General.

26 2. Respondent Byron M. Thompson, PT (Respondent) is represented in this
27 proceeding by attorney Dennis R. Thelen, whose address is 5001 East Commercenter Drive,
Suite 300, PO Box 12092, Bakersfield, CA 93389-2092.

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2 3. On or about April 7, 1997, the Physical Therapy Board of California
3 issued Physical Therapist License No. PT 22397 to Byron M. Thompson, PT (Respondent). The
4 license was in full force and effect at all times relevant to the charges brought in Accusation No.
5 1D 2002-63012 and will expire on January 31, 2004, unless renewed.

6 JURISDICTION

7 4. Accusation No. 1D 2002-63012 was filed before the Physical Therapy
8 Board of California (Board), Department of Consumer Affairs, and is currently pending against
9 Respondent. The Accusation and all other statutorily required documents were properly served
10 on Respondent on May 8, 2003. Respondent timely filed his Notice of Defense contesting the
11 Accusation. A copy of Accusation No. 1D 2002-63012 is attached as exhibit A and incorporated
12 herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and
15 understands the charges and allegations in Accusation No. 1D 2002-63012. Respondent has also
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulation
17 Settlement and Disciplinary Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the
19 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
20 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
21 the right to present evidence and to testify on his own behalf; the right to the issuance of
22 subpoenas to compel the attendance of witnesses and the production of documents; the right to
23 reconsideration and court review of an adverse decision; and all other rights accorded by the
24 California Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
26 each and every right set forth above.

27 CULPABILITY

1 8. Respondent admits the truth of the charges and allegations in Accusation
2 No. 1D 2002-63012.

3 9. Respondent agrees that his Physical Therapist is subject to discipline and
4 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
5 Order below.


6 CIRCUMSTANCES IN MITIGATION

7 10. Respondent Byron M. Thompson, PT has never been the subject of any
8 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Physical Therapy Board
11 of California. Respondent understands and agrees that counsel for Complainant and the staff of
12 the Physical Therapy Board of California may communicate directly with the Board regarding
13 this stipulation and settlement, without notice to or participation by Respondent or his counsel.
14 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
15 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
16 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement
17 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
18 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
19 further action by having considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Board may, without further notice  formal proceeding, issue and enter the
25 following Disciplinary Order:

26 **DISCIPLINARY ORDER**

27 IT IS HEREBY ORDERED that Physical Therapist No. PT 22397 issued to

Respondent Byron M. Thompson, PT is revoked. However, the revocation is stayed and

Respondent is placed on probation for five (5) years on the following terms and conditions.

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1. LICENSE SUSPENSION As part of probation, respondent's license shall be suspended for 30 days, beginning the effective date of this decision and order, or at a time determined at the discretion of the Board, but not later than one year from the effective date of this decision.

2. RESTRICTION OF PRACTICE - PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP Respondent may not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent may not be an officer of any corporation that offers or provides physical therapy services. Respondent may not employ physical therapists, physical therapist assistants or physical therapy aides.

PROBATION MONITORING COSTS All costs incurred by the Board for probation monitoring during the entire period of probation shall be reimbursed by respondent. Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order. In addition to the filing of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall be sought when appropriate.

4. COST RECOVERY The respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the amount of \$9776. Said costs shall be reduced, however, and the remainder forgiven, if Respondent pays one-half of said costs, or \$4883., within ninety (90) days of the effective date of this Decision. In the event Respondent fails to pay \$4883. within ninety (90) days of the Decision, the full amount of costs of \$9776. shall be immediately due and payable. Failure to pay the ordered reimbursement, or any agreed upon payment, may constitute a violation of the probation order. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board.

1 5. OBEY ALL LAWS Respondent shall obey all federal, state and local
2 laws, and statutes and regulations governing the practice of physical therapy in California.

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5 6. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be
6 in compliance with any valid order of a court. Being found in contempt of any court may
7 constitute a violation of probation.

8 7. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF
9 RESTITUTION Respondent must not violate any terms and conditions of criminal probation, if
10 applicable, and must be in compliance with any restitution ordered.

11 8. QUARTERLY REPORTS Respondent shall submit quarterly
12 declarations under penalty of perjury on forms provided by the Board, stating whether there has
13 been compliance with all the conditions of probation.

14 9. PROBATION MONITORING PROGRAM COMPLIANCE Respondent
15 shall comply with the Board's probation monitoring program.

16 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
17 shall appear in person for interviews with the Board, or its designee, upon request at various
18 intervals and with reasonable notice.

19 11. NOTIFICATION OF PROBATIONARY STATUS TO EMPLOYERS
20 The respondent shall notify all present or future employers of the reason for and the terms and
21 conditions of the probation by providing a copy of the Accusation and the decision and order
22 (stipulated settlement) to the employer. The respondent shall obtain written confirmation from
23 the employer that the documents were received. If the respondent changes employment or
24 obtains additional employment, the respondent shall provide the above notification to the
25 employer and submit written employer confirmation to the Board within 10 days. The
26 notification(s) shall include the name, address and phone number of the employer, and, if
27 different, the name, address and phone number of the work location.

28

1 12. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The

2 respondent shall notify the Board, in writing, of any and all changes of name or address within
3 ten (10) days.

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6 13. RESTRICTION OF PRACTICE - TEMPORARY SERVICES

7 AGENCIES Respondent may only practice or perform physical therapy in a supervised
8 structured environment. In a licensed hospital setting, Respondent may work as the
9 only Physical Therapist on staff, so long as he is in close proximity to administration and/or
10 supervision at all times while performing patient related tasks. The respondent shall not work for
11 a temporary services agency or registry. Respondent shall not provide physical therapy services
12 in a patient's home unless an adult, other than the patient, is present at all times and is notified
13 that the respondent is on probation.

14 14. PROHIBITED USE OF ALIASES Respondent may not use aliases and

15 shall be prohibited from using any name which is not his legally-recognized name or based upon
16 a legal change of name.

17 15. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent


18 works less than 192 hours in a period of three months, those months shall not be counted toward
19 satisfaction of the probationary period. The respondent shall notify the Board if him works less
20 than 192 hours in a three month period.

21 16. TOLLING OF PROBATION The period of probation shall run only

22 during the time respondent is practicing within the jurisdiction of California. If, during
23 probation, respondent does not practice within the jurisdiction of California, respondent is
24 required to immediately notify the probation monitor in writing of the date that respondent's
25 practice is out of state, and the date of return, if any. Practice by the respondent in California
26 prior to notification to the Board of the respondent's return will not be credited toward
27 completion of probation. Any order for payment of cost recovery shall remain in effect whether

1 or not probation is tolled.

2 17. VIOLATION OF PROBATION If respondent violates probation in any
3 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
4 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
5 revoke probation is filed against respondent during probation, the Board shall have continuing
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7 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
8 is final.

9 18. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
10 OTHER REASONS Following the effective date of this probation, if respondent ceases
11 practicing physical therapy due to retirement, health or other reasons, respondent may request to
12 surrender his license to the Board. The Board reserves the right to evaluate the respondent's
13 request and to exercise its discretion whether to grant the request or to take any other action
14 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the
15 tendered license, the terms and conditions of probation shall be tolled until such time as the
16 license is no longer renewed  the respondent makes application for the renewal of the tendered
17 license or makes application for a new license.

18 19. COMPLETION OF PROBATION Upon successful completion of
19 probation, respondent's license or approval shall be fully restored.

20 20. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
21 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
22 decision, respondent shall take and pass the Board's written examination on the laws and
23 regulations governing the practice of physical therapy in California. If respondent fails to pass
24 the examination, respondent shall be suspended from the practice of physical therapy until a
25 repeat examination has been successfully passed.

26 21. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE
27 ON PROBATION It is not contrary to the public interest for the respondent to practice/perform

1 physical therapy under the probationary conditions specified in the disciplinary order.

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4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and
6 have fully discussed it with my attorney, Dennis R. Thelen. I understand the stipulation and the
7 effect it will have on my Physical Therapist. I enter into this Stipulated Settlement and
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
9 Decision and Order of the Physical Therapy Board of California.

10 DATED: August 30, 2003.

11

12 Original Signed By:
13 BYRON M. THOMPSON, PT
14 Respondent

15 I have read and fully discussed with Respondent Byron M. Thompson, PT the
16 terms and conditions and other matters contained in the above Stipulated Settlement and
17 Disciplinary Order. I approve its form and content.

18 DATED: August 30, 2003.

19

20 Original Signed By:
21 DENNIS R. THELEN
22 Attorney for Respondent

23 ENDORSEMENT

24 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
25 submitted for consideration by the Physical Therapy Board of California of the Department of
26 Consumer Affairs.

27 DATED: September 2, 2003..

28

BILL LOCKYER, Attorney General

of the State of California

Original Signed By:
STEPHEN M. BOREMAN
Deputy Attorney General
Attorneys for Complainant

DOJ Docket/Matter ID Number: 03575160sa2003ad0149
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PHYSICAL THERAPY BOARD OF CALIFORNIA
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BYRON M. THOMPSON, PT
6321 Lynch Canyon Road
Lake Isabella, CA 93240

OAH No.

Physical Therapist No. PT 22397

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 17, 2003.

It is so ORDERED October 16, 2003.

Original Signed By Ellen Wilson, PT, President
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

Exhibit A
Accusation No. 1D 2002-63012